

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

**United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DAVID J. WILAND, CLERK
BY _____
DEPUTY _____

UNITED STATES OF AMERICA
vs.
BRANDY ARRINGTON

Case No. 4:05cr252
(Judge Schell/Judge Bush)

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on February 22, 2007, to determine whether the Defendant violated her supervised release. The Defendant was represented by Bobbie Peterson. The Government was represented by Tracey Batson.

On May 25, 2006, the Defendant was sentenced by the Honorable Richard A. Schell to twelve (12) months custody followed by a three (3) year term of supervised release for the offense of Conspiracy to Possess Stolen Mail. On November 9, 2006, the Defendant completed her period of imprisonment and began service of her supervised term.

On January 30, 2007, the U.S. Probation Officer filed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following conditions: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall submit to one drug test within fifteen (15) days of release from imprisonment and at least two (2) periodic drug tests thereafter, as

determined by the court; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substance, except as prescribed by a physician; (4) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office; and (5) Defendant shall reside in a residential re-entry center or similar facility, in a community corrections component, for a period of ninety (90) days to commence upon release from confinement and shall observe the rules of that facility.

The petition alleges that the Defendant committed the following acts: (1) On December 6 and 21, 2006, and January 22, 2007, Defendant submitted urine specimens that tested positive for methamphetamine; (2) On December 21, 2006, Defendant tested positive for cocaine; (3) On January 18, 2007, Defendant failed to report for a scheduled counseling session; and (4) On February 7, 2007, Defendant failed to report to the Volunteers of America in Hutchins, Texas, as Court ordered on January 29, 2007.

Prior to the Government putting on its case, Defendant entered a plea of true. At the hearing, the Court recommended that the Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Court revoke the Defendant's

supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of ten (10) months, with twenty-six (26) months of supervised release.

Signed this 19 day of March, 2007.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE